

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

NGAMBULA WABIBI, Individually as)
Surviving Parent of FRANCIS WABIBI,)
Deceased, VEMBA WABIBI, Individually)
as Surviving Parent of FRANCIS WABIBI,)
Deceased, and SHANA WABIBI as)
Anticipated Administrator of the Estate of)
FRANCIS WABIBI, Deceased,)
)
Plaintiffs,)
) CIVIL ACTION FILE NO.
v.)
) 1:24-cv-05305-MLB
FULTON COUNTY, GEORGIA, SHERIFF)
PATRICK LABAT, Individually,)
LIEUTENANT ANTONIO RICHARDSON,))
Individually, CAPTAIN JAMARL)
JOHNSON, Individually, and CADET)
DEPUTY ANTHONY OKONKWO,)
Individually,)
)
Defendants.)

**BRIEF IN SUPPORT OF DEFENDANTS FULTON COUNTY, GEORGIA
AND PATRICK LABAT’S JOINT MOTION TO STAY DISCOVERY AND
PRELIMINARY DEADLINES**

Defendants Fulton County, Georgia and Patrick Labat (“Defendants”),
through counsel, hereby file their Brief in Support of Defendants’ Joint Motion to
Stay Discovery and Preliminary Deadlines, respectfully moving the Court to issue
an Order staying certain pretrial deadlines established by the Federal Rules of Civil
Procedure and the Civil Local Rules for the United States District Court for the

Northern District of Georgia and to stay discovery until this Court rules on the pending Motions to Dismiss Plaintiffs' Complaint filed by Defendants.

ARGUMENT AND CITATION OF AUTHORITY

The U.S. Court of Appeals for the Eleventh Circuit has recognized the authority of district courts to issue an order staying pretrial deadlines and discovery pending a ruling on a defendant's motion to dismiss. *See Patterson v. U.S. Postal Serv.*, 901 F.2d 927, 929 (11th Cir. 1990) (holding that the district court did not abuse its discretion in staying pretrial and discovery deadlines because the court had "sufficient information before it upon which to rule" on the pending motion to dismiss or for summary judgment); *Lawrence v. Governor of Ga.*, 721 F. App'x 862, 864 (11th Cir. 2018) (per curiam) (holding that the district court did not abuse its discretion in granting, in part, defendant's motion to stay discovery and pretrial deadlines); *see also Chudasama v. Mazda Motor Corp.*, 123 F. 3d 1353, 1367 (11th Cir. 1997) (determining that when a pending motion challenges the legal sufficiency of a claim, the motion should be resolved before discovery begins).

As demonstrated in Defendants' Motions to Dismiss, Plaintiffs' Complaint is ripe for dismissal. Specifically, Plaintiffs' Complaint is due to be dismissed because: 1) it is as an impermissible shotgun pleading; 2) there is no sustainable 42 U.S.C. § 1983 action against Fulton County; 3) any state claims against Fulton County are barred by Fulton County's sovereign immunity; 4) any claims against Defendant

Labat are barred by the immunities he is afforded under the law; 5) Plaintiffs fail to state a claim for deliberate indifference against any Defendant; 6) Plaintiffs fail to state a claim for supervisory liability against Defendant Labat; and 7) because Plaintiffs are not entitled to punitive damages.

Should this Court deny the instant Motion to Stay Preliminary Deadlines, the parties will expend time and resources to satisfy the requirements imposed by Fed. R. Civ. P. 26. These efforts will be for naught, and the resulting filings will be unnecessary, if this Court grants Defendants' Motions to Dismiss. Defendants submit that the parties will not be prejudiced by granting the instant motion and that Defendants seek the stay in good faith and not for the purpose of delay or any other purpose contrary to the Federal Rules of Civil Procedure or the Local Rules of this Court.

Therefore, Defendants respectfully requests that this Court stay discovery as well as the following deadlines until after the Court rules on their pending motions to dismiss:

- (1) Rule 26 (f) Early Planning Conference, L.R. 16.1 N.D.Ga;
- (2) Joint Preliminary Planning Report and Discovery Plan, L.R. 16.2, N.D.Ga; and
- (3) Initial Disclosures, L.R. 26.1 N.D.Ga.

Respectfully submitted, this 10th day of December, 2024.

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/s/ **Richard Caplan**

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CERTIFICATE OF COMPLIANCE AND SERVICE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of Local Rule 5.1 of the Northern District of Georgia, using a font type of Times New Roman and a point size of 14.

I further certify that I have this day electronically filed this **BRIEF IN SUPPORT OF DEFENDANTS FULTON COUNTY, GEORGIA AND PATRICK LABAT'S JOINT MOTION TO STAY DISCOVERY AND**

PRELIMINARY DEADLINES with the Clerk of Court using the CM/ECF system, which will automatically send email notification to all attorneys of record.

Respectfully submitted, this 10th day of December, 2024.

/s/ **Richard Caplan**

Richard Caplan

Georgia Bar No. 597634

Attorney for Defendants

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